

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

BRIAN MARCUS WILSON,

*Plaintiff,*

vs.

BRIAN E. WILLIAMS, SR., *et al.*,

*Defendants.*

Case No. 2:13-cv-00461-JAD-NJK

**ORDER**

This habeas action comes before the Court on petitioner's motion (Dkt. #12) to extend the time to file a notice of appeal.

Under Rule 4(a)(5)(A) of the Federal Rules of Appellate Procedure (FRAP), the Court can extend the time to file a notice of appeal if a party moves no later than thirty days after the thirty-day time period for filing a notice of appeal expires and the movant shows excusable neglect or good cause.

The certificate of service on the motion reflects that petitioner mailed the motion for filing on June 11, 2014, following the judgment entered on May 12, 2014. The motion was timely in that it was filed prior to thirty days after the expiration of the thirty-day time period for filing a notice of appeal.

Petitioner further has demonstrated good cause. He asserts that after receiving the judgment on May 21, 2014, he sent several "kites" or inmate request forms to the prison law library but only gained access on June 11, 2014. He states that he needs additional time to file a notice of appeal. The Court finds that this adequately demonstrates good cause for a *pro se* inmate with only limited legal resources and limited legal knowledge facing the short deadline. *Cf. Todd v. Lamarque*, 2007 WL 1171389 (9<sup>th</sup> Cir. 2007) (inmate who frequently was in "lockdown" due to prison staffing shortages


1 demonstrated good cause under FRAP 4(a)(5)(A)). While an experienced attorney would understand  
2 that a notice of appeal is not a long or unduly complicated instrument, a *pro se* inmate would not  
3 necessarily either be aware of this or be able to determine this quickly at the outset.

4 The motion therefore will be granted in part. The Court cannot grant the full extension  
5 requested to September 12, 2014, however. Under FRAP 4(a)(5)(C), the Court cannot extend the time  
6 more than thirty days after the expiration of the original prescribed time for filing a notice of appeal.  
7 Thus, the Court in this circumstance may not extend the time past July 11, 2014.

8 **IT THEREFORE IS ORDERED** that petitioner's motion (Dkt. #12) to extend the time to file  
9 a notice of appeal is GRANTED IN PART and DENIED IN PART, such that the time for petitioner  
10 to file a notice of appeal, including by constructively filing by a mailing satisfying FRAP 4(c)(1), is  
11 extended up to and including July 11, 2014.

12 The Clerk shall SEND petitioner with this order a copy of a page including Form 1 from the  
13 Appendix of Forms to the Federal Rules of Appellate Procedure and shall reflect the transmittal in a  
14 notation along with the docketing of this order.<sup>1</sup>

15 Dated: June 23, 2014.

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19 JENNIFER A. DORSEY  
United States District Judge

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<sup>1</sup>The form can be found on page 602 of the 2014 edition of the Westlaw Federal Civil Judicial Procedure and Rules softcover volume.